

# Strategy Research Project

## MILITARY CONTRACTORS - TOO MUCH DEPENDENCE?

BY

LIEUTENANT COLONEL NATHAN E. HILL  
United States Air Force

### DISTRIBUTION STATEMENT A:

Approved for Public Release.  
Distribution is Unlimited.

USAWC CLASS OF 2008

This SRP is submitted in partial fulfillment of the requirements of the Master of Strategic Studies Degree. The views expressed in this student academic research paper are those of the author and do not reflect the official policy or position of the Department of the Army, Department of Defense, or the U.S. Government.



U.S. Army War College, Carlisle Barracks, PA 17013-5050

<b>Report Documentation Page</b>			Form Approved OMB No. 0704-0188	
<p>Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.</p>				
1. REPORT DATE <b>15 MAR 2008</b>	2. REPORT TYPE <b>Strategy Research Project</b>	3. DATES COVERED <b>00-00-2007 to 00-00-2008</b>		
4. TITLE AND SUBTITLE <b>Military Contracting- Too Much Dependence?</b>			5a. CONTRACT NUMBER	
			5b. GRANT NUMBER	
			5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S) <b>Nathan Hill</b>			5d. PROJECT NUMBER	
			5e. TASK NUMBER	
			5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) <b>U.S. Army War College ,122 Forbes Ave.,Carlisle,PA,17013-5220</b>			8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)			10. SPONSOR/MONITOR'S ACRONYM(S)	
			11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT <b>Approved for public release; distribution unlimited</b>				
13. SUPPLEMENTARY NOTES				
14. ABSTRACT <b>See attached</b>				
15. SUBJECT TERMS				
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT <b>Same as Report (SAR)</b>	18. NUMBER OF PAGES <b>30</b>
a. REPORT <b>unclassified</b>	b. ABSTRACT <b>unclassified</b>	c. THIS PAGE <b>unclassified</b>	19a. NAME OF RESPONSIBLE PERSON	

The U.S. Army War College is accredited by the Commission on Higher Education of the Middle State Association of Colleges and Schools, 3624 Market Street, Philadelphia, PA 19104, (215) 662-5606. The Commission on Higher Education is an institutional accrediting agency recognized by the U.S. Secretary of Education and the Council for Higher Education Accreditation.

USAWC STRATEGY RESEARCH PROJECT

**MILITARY CONTRACTORS – TOO MUCH DEPENDENCE?**

by

Lieutenant Colonel Nathan E. Hill  
United States Air Force

Colonel Michael W. Hoadley  
Project Adviser

This SRP is submitted in partial fulfillment of the requirements of the Master of Strategic Studies Degree. The U.S. Army War College is accredited by the Commission on Higher Education of the Middle States Association of Colleges and Schools, 3624 Market Street, Philadelphia, PA 19104, (215) 662-5606. The Commission on Higher Education is an institutional accrediting agency recognized by the U.S. Secretary of Education and the Council for Higher Education Accreditation.

The views expressed in this student academic research paper are those of the author and do not reflect the official policy or position of the Department of the Army, Department of the Air Force, Department of Defense, or the U.S. Government.

U.S. Army War College  
CARLISLE BARRACKS, PENNSYLVANIA 17013



## **ABSTRACT**

AUTHOR: Lieutenant Colonel Nathan E. Hill

TITLE: Military Contracting – Too Much Dependence?

FORMAT: Strategy Research Project

DATE: 19 March 2008 WORD COUNT: 6,209 PAGES: 30

KEY TERMS: Cost, Budget, Private Security, Government, Congress, Service

CLASSIFICATION: Unclassified

In the last 20 years, the U.S. military has become increasingly reliant on contractors. This paper asks the question, “Are we too dependent on contractors?” This paper will briefly summarize a number of critiques against the use of contractors which have been explored by previous papers and books. This paper will then describe four new criticisms which have not been adequately addressed by the military or by independent research. The combination of these critiques should challenge all the services to rethink the use of and dependency on contractors. There is undoubtedly a need for military contractors and there are numerous positive arguments in their favor. However, the negative arguments have not been highlighted enough recently and the scales are now out of balance. The intent of this research paper is to encourage the U.S. military to rebalance the scales and curb the over-reliance on contractors.



## MILITARY CONTRACTORS – TOO MUCH DEPENDENCE?

Congress, the media and the American taxpayer have all recently shown an escalated concern over the U.S. military's increased use in contractors. The number of contractors and the cost of contractors is staggering. The growing frustration in Congress has forced them to add \$74 million to the 2008 defense budget in order "to hire thousands of new auditors, contract managers and inspectors to improve contract oversight."<sup>1</sup>

There would probably be very little debate over the question of whether or not the U.S. military "should" use contractors. However, there would be, and indeed there is much debate over "how much" the U.S. military should rely on contractors. Those individuals who argue in favor of the increased use of contractors seem to have been enormously successful in recent years. While recognizing the need for contractors, the U.S. military must guard against the radical increase in their use and needs to rebalance the scales to ensure they "get it right." The arguments against the use of contractors have not been highlighted enough recently and the excessive proliferation of contractors in the military is the result.

There are numerous well-documented and well-researched reasons the U.S. military should reconsider how reliant they have become on contractors. The first section of this paper will address each of those reasons briefly. The second part of this paper introduces four new reasons the U.S. military should reconsider how reliant they have become on contractors. Although there has been some preliminary research done on these four new reasons, there should be more in-depth analysis accomplished to ensure the U.S. military finds the right balance in their reliance on contractors.

The Office of the Secretary of Defense should commission a study on the pros and cons of contracting in order to determine what the right balance should be. The study should consider the following arguments against the over-reliance on contractors.

### Documented Criticisms of Contracting

#### Out of Control Numbers

“Since the first Gulf war in 1991, the proportion of private forces to military personnel has more than quadrupled, and today the number of private contractors employed by the Pentagon is more than seven hundred thousand by some estimates.”<sup>2</sup> Civilian contractors accounted for only 1 in 60 deployed personnel in the first Gulf war. That number changed to 1 in 11 for operations in Bosnia, then to 1 in 3 for operations in Kosovo. Contractor ratios for operations in Iraqi Freedom are said to be 1 to 2.5.<sup>3</sup> Actual contractor numbers are difficult to ascertain for certain, so figures may disagree. However, all the statistics indicate an upward trend. An article in the Oakland Tribune suggests contractors actually outnumber military troops 180,000 to 166,000. The contractor numbers include all American, Iraqi, and nationals from other countries working under U.S. federal contracts.<sup>4</sup> Sandra Irwin, a writer for National Defense Magazine claims that, based on her own research and the research conducted by the Industrial College of the Armed Forces, “the privatization of government functions not only is here to stay, but is going to get bigger.”<sup>5</sup> She does not believe an end to the conflict in Iraq will change that.

Contracting work has increased so much in recent years that a Pentagon commission was created to make suggestions as to how to handle it. Jacques Gansler, who is a former defense acquisition undersecretary, led the commission and said,

"There has been a huge increase in workload – seven times the increase – and yet we have not increased the military or civilian side to match."<sup>6</sup> He goes on to describe how he believes the U.S. Army should establish an Army Contracting Command to deal with the problem. The perceived requirement to establish a new command to deal with the problem is a clear sign that the number of contractors is at the point where it is difficult to deal with at best and may be approaching the point of being "out of control."

### Expense

"By the government's own estimates, of the Pentagon's \$300 billion annual procurement outlays, half is for private-sector service contracts."<sup>7</sup> Contractors are expensive. Although there is great debate over whether or not contacting saves money in the long term, it is quite clear that contractors do not come cheap. Salaries for various contract security guards in Iraq range from \$100,000 to \$200,000 per year which is double to triple what a comparable military salary would be.<sup>8</sup> Additionally, the largest private contractor currently in Iraq, Halliburton's Kellogg, Brown and Root is believed to be under a contract worth \$13 billion or more. That figure is approximately two and a half times the cost the United States paid for the entire Persian Gulf War fought in 1991.<sup>9</sup>

The U.S. Air Force has been working a plan to save money by reducing the ranks of the active duty by 40,000. Now that the plan is underway, the Secretary of the Air Force has said, "It is not working." His comments were made at a Sept 19, 2007 briefing sponsored by the Center for Strategic and Budgetary Assessments.<sup>10</sup> Much of the reason it is not working has to do with the distribution of potential savings, but

another reason it is not working is because when active duty jobs are eliminated, there is still work to be done, and often times that work gets picked up by contractors.

The U.S. Air Force is not the only service wrestling with this problem. Pentagon officials working the issue for the entire DoD are “fed up with delays and cost overruns” and have instituted a new system to grade contractor performance to better handle award fee abuse.<sup>11</sup> In the past, companies were earning their award fees even when the contractors did not achieve the contractual objectives. The new system is intended to ensure contractors do not receive moneys they have not actually earned. Under the new system, a company needs to receive a “satisfactory” just to get 50% of the fee. A “good,” “excellent” or “outstanding” could bring them up to 75%, 90%, or 100%.<sup>12</sup> One example of just how much money is spent (or misspent) on award fees comes from the \$256 million award fee recently paid to KBR (formerly Kellogg, Brown and Root).<sup>13</sup>

## Greed

Retired US Army Colonel Gerald Schumacher writes about contractor greed in his book, *A Bloody Business*. He states, “without a doubt, corporations and individuals are motivated by money to get into the war zone contracting business.”<sup>14</sup> He goes on to discuss how contractors in war zones make significantly more money than individuals doing similar jobs in the United States. Colonel Schumacher does do a good job of arguing both the good and the bad sides of using contractors, especially in a war zone, but the fact still remains that greed can become a negative factor. Corporations are generally interested in making a profit. That means a corporation’s incentives are not necessarily going to be aligned with the interests of the nation or the public.<sup>15</sup>

## Legal Issues

Strict legal clarity is required when contractors are used in peacetime. Each military branch utilizes highly educated and highly informed personnel to ensure each contract is offered, accepted, and enforced correctly. This process is burdensome in peacetime but becomes even more of an issue in wartime due to stress, time constraints and urgency. The temptation to cut corners is always prevalent. Additionally, having contractors in or near a combat zone raises further legal issues. The Law of Armed Conflict (LOAC) clearly applies to military personnel and classifies them as “combatants.” Contractors, however, are noncombatants, or at least they seem to be at first glance. If civilians take part in hostilities, they may be considered combatants who would then be subject to attack.<sup>16</sup> Additionally, “according to the LOAC, only the combatant has the honor to conduct war and deliberately kill the enemy (direct action). A noncombatant...who engages and kills the enemy could be seen as a murderer.”<sup>17</sup> The types of duties contractors have been responsible for in recent wars could be the source of all the confusion. Contractors are often hired to perform security duties and in that capacity may have to deliberately kill the enemy. Contractors are also intimately involved in the maintenance and sometimes the use of military equipment designed for killing the enemy. The contractor of today faces possible charges and/or mistreatment from the enemy if captured and even if they were victorious in battle they could possibly face charges from the International Criminal Court.<sup>18</sup>

The U.S. Congress is also concerned about the legal issues. “How is it in our nation’s interest to have civilian contractors, rather than military personnel, performing vital national-security functions such as prisoner interrogations in a war zone?” asked Michigan Sen. Carl Levin, senior Democrat on the Senate Armed Services Committee.

“When soldiers break the law or fail to follow orders, commanders can hold them accountable for their misconduct. Military commanders don’t have the same authority over civilian contractors.”<sup>19</sup>

The Army Field Manual, “Contractors on the Battlefield” does not offer much help. It states, “Currently, there is no specifically identified force structure nor detailed policy on how to establish contractor management oversight within an AOR. Consolidated contractor management is the goal, but reality is that it has been, and continues to be, accomplished through a rather convoluted system...Only the contractor can directly supervise its employees. The military chain of command exercises management control through the contract.”<sup>20</sup> Congress has attempted to help with the battlefield confusion and accountability. In 2000, they passed the Military Extraterritorial Jurisdiction Act (MEJA). This act allows the U.S. military to bring back to the United States any military contractors who commits crimes. The contractor could then be tried in a U.S. federal court for certain specified crimes. “In practice, however, MEJA has had little visible effect.”<sup>21</sup> Congress again tried to clarify and help the military with the passage of the 2007 defense authorization act when it changed the Uniformed Code of Military Justice by expanding its jurisdiction to include civilian contractors serving during a contingency operation. Previously, the jurisdiction only included times of war, which was widely interpreted to mean wars declared by Congress.<sup>22</sup> In theory, this new law will clean things up and allow commanders to give orders and punish the contractors under their control. In reality, it remains to be seen just how the new law will be interpreted, applied, and upheld.

For the commander on the ground, the problems still exist. The Army's Field Manual needs to be changed, the U.S. military must decide on exactly how to interpret and apply the laws, and the contractors must know what rules apply to them. So for now, a commander may lose a battle, lose an advantage, or may even lose lives because of his or her inability to order contractors to do something that is not specified in the contract.<sup>23</sup>

### Cronyism

Certain military contractors have established such a great reputation for getting the job done that the military is reluctant to hire a competitor. KBR is one such company. The story is told of an instance where a low-bidder company was awarded a trucking contract in the Middle East and replaced KBR. The new firm was apparently "clueless as to how to get the job done" and the military units in the Middle East were the ones who had to pay the price.<sup>24</sup> Stories like this one are just one of the reasons the "good old-boy" network for contract awards is said to exist. Another reason for cronyism could simply be attributed to human nature. Human beings tend to want to work with those individuals (or companies) with which they have established a level of familiarity. There is also potential for the negative effects of quid pro quo. All of these reasons are potential causes for cronyism which can easily lead to the improper or unfair awarding of contracts.

### Disproportionate Role in the Mission

It could be argued that war in the last two decades is not like wars in the previous decades. In previous wars (with perhaps the exclusion of the war in Vietnam) the enemy would cease fighting once major combat operations had terminated. After World

War II ended, the American soldiers in countries like Italy, Germany and Japan were no longer threatened by the populace. Indeed, the soldiers were often welcomed as heroes. My father has told me stories of how U.S. soldiers would sit in Japanese barbershop chairs with Japanese barbers holding razors to their throats immediately following the end of World War II. The soldiers did not feel at all threatened as their enemy only one month earlier was now shaving their whiskers. In the wars of the last several decades, but especially in the wars of today (Afghanistan and Iraq), the soldiers remain threatened by the populace even after major combat operations are complete.

Because countries like Afghanistan and Iraq are still so dangerous, the U.S. military (and the coalition) found themselves struggling to maintain security. Perhaps an ideal solution would have been to increase troop levels by a factor of three or four. However, the U.S. military was extremely hard pressed to support those numbers without calling for a national draft and the American public was unwilling to support a draft.<sup>25</sup> This shortage of troops in Afghanistan and Iraq left many peripheral services and security needs unfulfilled. The quick and easy solution to this problem was to fill the void with contractors. In short, a scaled-down, over-tasked military fighting prolonged wars that were unique from our past “classic” wars required contractors to fill a disproportionate role in the mission. The imbalance was not simply in numbers, but also in the fact that some of the roles were out of balance from past paradigms. In the past, a civilian was either a mercenary involved in the fighting or was a noncombatant providing a service that was unmistakably noncombat. Some of today’s contractors, particularly security guards, appear to be taking on the tasks of a combatant.<sup>26</sup>

## Integration

Life in combat is not only dangerous, it is also confusing. The soldier of today is quite possibly held to a higher standard than the soldier of the past who fought without email, instant messages, cell phones, cameras, the internet, CNN and Aljazeera television. Any improper action or even any perceived improper action can have potential negative consequences of a strategic nature almost instantly. Since that is the case, military personnel are forced to abide by strict and often confusing and limiting rules of engagement. The military fights as one team, no matter what the branch of service. The military is responsible to commanders who have the ability and authority to unify and standardize. Commanders are not sure if they have direct authority over contractors. In an already confusing arena, the job of integrating the contractors becomes that much more confusing. An integrated, rapid response in the face of danger is critical. Commanders may find themselves asking, “Do the contractors know the ROE (rules of engagement)?” “Do they care what the ROE is?” “Will the contractor listen to me when it is time to act?” “Can I share this crucial intelligence information with the contractor?” or “Will the contractor share crucial intelligence information with me?”<sup>27</sup>

## Accountability

Contractors require oversight, and may not be getting enough. There is great concern over the shortage of contracting officers operating at home and abroad. Former Pentagon acquisition chief Jacques Gansler recently led a study commission and confirmed the following, “lax government administration of war zone contracts created a climate of corruption, resulting in fraud, waste and abuse.”<sup>28</sup> This lack of oversight has the attention of the U.S. Congress. According to Congressman David

Price's official web site, "Congress will soon send the President two major bills to significantly improve the government's lax management and oversight of private security contractors."<sup>29</sup> Both bills (H.R. 1585 and H.R. 2082) together will provide Congress with better information on contractor hiring and contractor activities and will have the effect of keeping "armed contractors on a tighter leash."<sup>30</sup>

When President Bush first took office in 2001, he hired Angela Styles to be the point person for follow-through on one of his campaign promises to open up 450,000 federal jobs for private sector competition. In that capacity, she saw exactly how much the government has come to rely on contractors and how difficult it is to maintain accountability of the contractors. She was interviewed by the Center for Public Integrity and one of her arguments was that widespread growth of contracting for services has expanded beyond the government's ability to oversee it. She said, "I don't know of any function within the government that would actually operate without contractors at this point...it's a partnership that maybe we stumbled into." She goes on to say, "You walk into a government building, you've got a federal employee working next to a contractor, they may have the exact same duties, they may have precisely the same duties, they interact with the public, they make decisions." She goes on to discuss how the public employee falls under government rules while the private contractor answers to their private employer.<sup>31</sup>

Another aspect of lack of accountability is how contracts are awarded. A significant concern to many is that all too often contracts are awarded without bids. Rep. Jan Schakowsky, D-Ill., is one of those concerned. She believes the process is often too obscure and secretive. "I'm sure many important functions are done by these

private contractors,” she says. “But at the same time, the process masks just what the U.S. commitment is in places like Iraq and allows many of these activities to literally fly under the radar of the Congress and the consciousness of the American people.”<sup>32</sup>

Rep Schakowsky’s concerns, declared in 2004, seemed to have been prophetic. The Kuwait contracting office that was responsible for numerous contracts in Iraq was recently relieved of its oversight duties as part of an effort to stop fraud, waste and abuse. “The Criminal Investigation Command has 87 ongoing investigations related to allegations of contract fraud in Iraq, Kuwait and Afghanistan…(and) twenty-four people have been charged with contract fraud...”<sup>33</sup>

#### Lack of Self-restraint

A war zone is a chaotic zone. U.S. soldiers train not only so they can accomplish the wartime tasks, but also so they can function in a chaotic environment. To help the individual soldier make smart and lawful decisions, commanders will publish rules of engagement (ROE). Every soldier is required to abide by these rules. The same things may not always be said for contractors. Some companies have incredibly great programs and written rules to help their personnel survive in the chaotic war zone and other companies do not. It is therefore no wonder that contractors who find themselves unprepared and scared are the ones who are accused of lack of self-restraint.<sup>34</sup>

In Iraq, “security contractors have been frequently cited for shooting first and asking questions later. In one incident, a private military contractor was escorting a convoy through a U.S. Army checkpoint …(and) allegedly teargassed the soldiers managing the checkpoint to accelerate movement.”<sup>35</sup>

Lack of self-restraint may be caused by numerous issues. In addition to those mentioned above, soldier-contractor relationships may be another. Often soldiers resent the contractors who may be living in better conditions and getting better pay, so they mistreat the contractors. Additionally, soldiers may not understand why a contractor is there or what he or she is doing. Unless there is appropriate communication, this could be a recipe for more mistreatment. The argument is that a mistreated contractor could be an unrestrained contractor.<sup>36</sup>

The final potential cause of contractor lack of self-restraint is the lack of appropriate equipment. In a war-like setting it is crucial to have the right protective equipment such as helmets, vests, bulletproof vehicles, etc. Contractors who lack this equipment may find themselves in very precarious situations. To compensate, they may become more aggressive and unpredictable and may cross the imaginary line of unrestraint.<sup>37</sup>

It is fortunate that actions are being taken to alleviate many of these concerns. Contractors are becoming better equipped, the communication between the military and contractors is improving, and perhaps most notably, some contractors subscribe to a code of conduct established by the International Peace Operations Association which requires the private companies and their employees to abide by key international and human-rights laws while conducting stability operations and peacekeeping.<sup>38</sup>

### Nongovernmental Employees Doing Governmental Work

Contractors may be doing work that is “inherently governmental.” According to Dan Guttman, a commentator for The Center for Public Integrity, “it has been longstanding bipartisan White House policy that ‘inherently governmental’ work – the

basic and most sensitive work of government – must be performed by government officials.”<sup>39</sup> He goes on to describe how, in the mid 1900s, officials from the White House had growing concerns about contractors going too far. It was at that time the principle was established that inherently governmental functions should never be done by anyone who was not in the government. Since then, every President’s administration has embraced the principle. The current Bush administration revised Circular A-76 in May of 2003 and it states, “agencies shall...Perform inherently governmental functions with government personnel.”<sup>40</sup>

This principle has also been accepted by Congress who passed the FAIR Act in 1998. The FAIR Act “requires agencies to inventory civil service work, and identify specific jobs as ‘commercial’ (which may be contracted out) or inherently governmental (which may not be contracted out).”<sup>41</sup>

The U.S. Army also recognizes the importance of keeping certain types of work within the government. In a Dec 2000 memo, the Assistant Secretary of the Army for Manpower and Reserve Affairs explained how certain sensitive intelligence work should not be done by private contractors since these contractors “may be acquired by foreign interests, acquire and maintain interests in foreign countries, and provide support to foreign customers.” The memo goes on to say, “oversight exerted over contractors is very different from the command and control exerted over military and civilian employees. Therefore, reliance on private contractors poses risks to maintaining adequate civilian oversight over intelligence operations.”<sup>42</sup> The memo directed that a rule barring contractors from intelligence-type work was supposed to be added to the next update to the Field Manual on Army Contractors. However, the next edition did not

include the rule. One has to wonder if it was intentionally left out of the manual because the manual was written by a contractor.<sup>43</sup>

Several years after the writing of this memo, the Army apparently disregarded its own concepts and hired contractors to do some of the intelligence interrogations at Abu Ghraib prison.<sup>44</sup> As one ponders all the harmful affects of the prisoner abuse by both the military and the contractors, one has to consider both the “accountability issue,” addressed in the previous section of this paper, and the problem of having contractors doing work that is “inherently governmental.”

### Undermining the Military Profession

Once the floodgates of contracting are opened, they will be hard to close. Furthermore, once the military has been flooded with contractors, it is arguable that the lines between what a contractor does and what a service member does will be blurred.<sup>45</sup> This has the potential to “erode the professional ethos of the military.”<sup>46</sup> Military members may see contractors doing the same or very similar things to what they are doing but getting paid twice as much. This creates a challenge for the military member as he or she thinks about the situation. The contractor cannot be required to stay overtime without compensation while the military member must stay if required. The contractor probably is not required to wear a uniform, get a haircut and maintain physical fitness standards. The contractor can leave or quit if the going gets tough, the military member must endure. The contractor will not be required to deploy (unless it is written in the contract), but the military member may. The commander of any unit that has employees not being treated equally will have his or her hands full maintaining unity and camaraderie as well as keeping retention rates up.

## Lack of Reliability

Contractors may not be reliable when bullets start flying. Contractors “may refuse to enter what they consider to be a dangerous situation.”<sup>47</sup> Contractors may also decide they have had enough and leave at any time during a wartime operation. In the past, that may have meant soldiers, sailors, and airmen would have to do without a hot meal or be limited in some relatively minor way. Now, because of the dramatic increase in the military’s reliance on contractors, it could mean important wartime tasks or maintenance are not getting done. Certain military platforms such as the Global Hawk and Predator are highly reliant on contract maintenance.<sup>48</sup>

Although a contractor may flee when the going gets tough, there is something far worse a contractor could do, a contractor could be working for the enemy. This concern is so great; Congress tasked the Government Accountability Office (GAO) to research the problem. One of the discoveries revealed in the subsequent GAO report was that “the terrorists who attacked the U.S.S. Cole were suspected to be contractor employees associated with its refueling operations.”<sup>49</sup> The report went on to describe more recent areas of operation where numerous military officials they spoke with revealed how they had observed contractors pacing off military installations in order to provide valuable information to hostile forces operating outside the installation. It further described contractors’ actions in other illegal activities such as theft and black market activities.<sup>50</sup> The report did not simply focus on all the bad things associated with contractors, if fact it acknowledged how important contractors are to the U.S. military. But the fact remains, contractors can pose a risk and that has to be a factor in to the decision of how much dependence the U.S. military should have on contractors. Additionally, there must be some level of effort applied to mitigate the risk.

Directly stemming from the fact that contractors may be unreliable is the need for adequate plans as well as backup plans when utilizing contractors for vital services. The Senate Committee on Armed Service was so concerned about this that they requested a GAO study on the subject. The study concluded, “DOD and the services have not identified those contractors that provide mission essential services and where appropriate developed backup plans to ensure that essential contractor-provided services will continue if the contractor for any reason becomes unavailable.”<sup>51</sup> Additionally, the study pointed out deficiencies in acquisition regulations that allow contractors to be hired without clauses in the contract to cover deployments or changes to deployment locations.<sup>52</sup> According to the Department of Defense response to the report, many of the areas of concern and recommendations raised by the report are being addressed.<sup>53</sup>

### Governmental Loopholes

Contractors may be being used as a loophole for congressionally mandated troop ceilings allowing the executive branch to bypass the rulings of Congress. Not only that but, as Peter Singer of The Brookings Institution puts it, “they can accomplish public ends through private means” and “allow governments to carry out actions that would not otherwise be possible.”<sup>54</sup> He goes on to say that it “disconnects the public from its foreign policy, removing certain activities from popular oversight.”<sup>55</sup>

Deborah Avant, an associate professor at George Washington University sums up the government loophole dilemma quite well. “The very flexibility that makes PSCs (Private Security Companies) so beneficial also redistributes power within the United States, empowering the executive over Congress, reducing transparency, and making it

easier for commercially interested actors to impact policy.”<sup>56</sup> She goes on to discuss how politicians are no longer accountable and how there is no “political cost” associated with their decisions.<sup>57</sup> In short, the system of checks and balances inherent in the U.S. government has been breached.

### Criticisms of Contracting Requiring More Study

The arguments or criticisms listed above have all been studied and documented in reasonable detail and should be considered by military planners, contracting officers and leaders as the U.S. forges ahead in the coming decades. Listed below are four new arguments that have not been studied in great depth. These problems are worthy of further study and consideration.

#### Cost Escalation

As Peter Singer says, “To put it bluntly, the incentives of a private company do not always align with its clients’ interests – or the public good.”<sup>58</sup> Private contractors, at least at the corporate level, are in the business to make money. Undoubtedly there is some patriotism involved, but if the company is not making money and the stockholders are unhappy, then things will and must change. It is this “change” that is disturbing. A private contractor has several ways to force change. The ideal way would be for the company to become more efficient without reducing the service provided. This would be a win-win situation for the contractor and the military. Another less ideal change would be to reduce the services provided. This would be a win for the contractor (less employees, less overhead, etc.), but a loss for the military. A final way of forcing change would be for the contractor to ask for more money. This can be called the “foot in the door” technique. The premise is that once a company gets their foot in the door,

they will often times find reasons (valid or invalid) to receive more pay. The reasons will vary from “the cost of materials increased unexpectedly” to “the original contract didn’t include that service and if you want that service it will cost XX more.”

The military or the GAO should undertake a study to see what the average percentage increase there is in private contract costs from inception (what the military planned to pay) to the five-year and then ten-year point (what the military really paid). If the results match the inflation rate, then perhaps contracting is a money saving endeavor. If the results exceed the inflation rate, then perhaps the U.S. military is not saving money and should pursue other means of achieving its objectives.

### Reduction in Military Strength

The use of contractors has undoubtedly enabled the U.S. military to reduce active duty troop levels. But is that a good thing? There is an age-old saying, “there is strength in numbers” and there are endless examples to prove the validity of that saying. Efficiency experts will claim that “extra employees” are unnecessary and should be eliminated from the payroll. Based on that argument (and numerous supporting arguments) the U.S. military has reduced the number of active duty members. On paper, the results may seem to be great. However, the second and third order effects that are experienced in reality have all too often been overlooked. The military is not a company; it is an instrument of national power and needs to be ready to respond to a broad array of problems in a moments notice. This often means transitioning from 10-hour operations to 24-hour operations without prior warning. In addition to the “normal functions” that often must be accomplished during the additional 14 hours, 24-hour operations are usually accompanied by an increase in threat level and an increase in

security. All of these “additional jobs” require manpower; usually the manpower does not come from contractors, it is taken “out of hide” from the active duty ranks. An organization manned for perfectly efficient 10-hour operations is suddenly presented with an unsolvable problem when required to go to 24-hour operations.

The U.S. military has always valued education and training. But because of troop reductions, commanders at all levels now have less flexibility in allowing military members the opportunity for training and education. The mission must come first; and if allowing a soldier, sailor or airmen to go off for training will cause the mission to falter, a commander may be forced to deny the soldier, sailor or airmen the training.

The increased number of deployments to Afghanistan and Iraq has had a serious impact on the military in terms of readiness (i.e. readiness for other contingencies) and morale. Increased troop levels would offset some this impact.

There is another, more intangible reason for an increase in troop strength rather than an increase in contractor strength. It can be argued that anyone who has ever worn a military uniform in service of their country is forever changed. And generally the change is positive both for themselves and for their country. The military instills discipline. It promotes integrity, physical strength, health, unity, cooperation and teamwork. It combats stereotyping and sexual harassment. It fosters in its members a broader perspective of the world in which we live. It does wonders for patriotism. If more citizens could experience these positive changes, it would be better for the country. However, the trend is not good. The population of the United States is more than 330 million; but less than one percent of the population is currently serving in the Army.<sup>59</sup>

The argument may be made that a one for one replacement of a contractor with a military member saves money. That argument may look good on paper. But if a contractor only works 40 hours per week and the military member works 60 hours per week (or at least they could work that much on any given week), then the military member potentially provides 50% more production.

#### Contractors Limiting Peacetime Training

Military members are on duty 24 hours a day/7 days a week, but contractors must abide by contracts. This fact means contractors often cause significant hindrances to peacetime training. Numerous Army and Air Force units have begun using contract maintenance to fix and launch their aircraft. In a normal peacetime environment this arrangement has many advantages and generally works well. However, when things do not go according to plan, as often happens for aviation units due to poor weather, the unit needs flexibility. Often the best solution may be an impossible or very expensive solution because of the contract limitations. If flying training normally takes place Monday through Friday, but the weather hinders that training, then a solution might be to fly on Saturday and/or Sunday. However, the contractors may not be able to work on the weekend or they may charge hundreds of thousands of dollars to accomplish the mission.

Weather and aviation training is only one example of contract hindrance. Contractors are involved in all types of training from language specialist to simulator operators to the medical field. Any time the military needs to increase either the quantity or tempo of the training, they are at the mercy of the contract.

## Perceived Short-term Expense Actually Becoming Long-term Expense

One of the more popular arguments for the use of contractors is that the U.S. can increase the number of contractors when required (such as during a major military operation like Operation Iraqi Freedom) and reduce the number of contractors when they are not required. Therefore, contractors become a short-term expense. The reality may be however, that operations such as Iraqi Freedom are not short-term. And even if Iraqi Freedom ends tomorrow, the evidence is mounting that the U.S. military is being used abroad significantly more and more often in today's environment. In a 12 September 2007 Congressional Research Service report to Congress, Richard Grimmett listed all of the known instances the U.S. has used its armed forces overseas for other than normal peacetime purposes. In the 18 years prior to 1990, the report contained only 30 occasions. In the 18 years since the start of 1990, the report listed 112 occasions.<sup>60</sup> Granted, not every use of the military was long-term and not every occasion required the use of contractors. But the sheer quantity alone is a compelling argument that times have changed. Our military has been and is going to be used more and the U.S. will either need more troops, or will have to rely on contractors.

## Conclusion

The military and civilian leaders in the United States may not have knowingly and cooperatively made a decision to increase the military's reliance on contractors in the last 20 years, but knowingly or otherwise, the increase has occurred. This increased reliance on contractors has been too great and that the U.S. military is now overly dependent on contractors.

Military contracting officers and the GAO should consider the criticisms of contractors mentioned in this paper. Furthermore, the Office of the Secretary of Defense (OSD) should commission a study on the pros and cons of contracting in order to determine what the right balance should be. The study should give special consideration to the four new or little-researched arguments against the use of contractors. The Industrial College of the Armed Forces would be an appropriate institution to complete the study as would a Washington “think tank” with a military focus. Once the study is complete, OSD should work with the services, the President, and Congress in order to realign the services responsibilities, manpower and budgets to achieve the proper balance.

Senior leaders in the military, senators and representatives in Congress and senior executive leaders all have a great responsibility to do what is best for the country. Many of these responsibilities relate directly to the use of military contractors. Accountability, integrity, proper use of taxpayer money and human lives are all at stake. Contractors are undoubtedly beneficial and necessary, but in the last two decades, the U.S. military has become too dependent on contractors and there is a need to achieve greater balance.

### Endnotes

<sup>1</sup> William Matthews, “U.S. Lawmakers Vote On ‘08 Defense Spending,” *Defense News*, 17 Sep 2007: 6.

<sup>2</sup> Gerald Schumacher, *A Bloody Business* (St Paul: Zenith Press, 2006). 12.

<sup>3</sup> Matthew Uttley, “Private Contractors on Deployed Military Operations: Inter-Agency Opportunities and Challenges,” *Heritage Lectures*, No 972 (June 15, 2006): 2.

<sup>4</sup> Lardner, Richard, “Contractors Outnumber Iraqi Troops,” *Oakland Tribune*, 20 Sep 2007 (newspaper on-line): available from [http://findarticles.com/p/articles/mi\\_qn4176/is\\_20070920/ai\\_n20507368](http://findarticles.com/p/articles/mi_qn4176/is_20070920/ai_n20507368); Internet; accessed 10 Jan 2008.

<sup>5</sup> Sandra I. Erwin, "For Contractors in War Zones, Business Will Keep Growing," *National Defense*, Dec 2007 [journal on-line]; available from <http://www.nationaldefensemagazine.org/issues/2007/December/DefenseWatch.htm>; Internet; accessed 10 Jan 2008.

<sup>6</sup> Kris Osborn, "Panel: Create U.S. Army Contracting Command," *Defense News*, 5 Nov 2007: 4.

<sup>7</sup> Erwin.

<sup>8</sup> Deborah D. Avant, "The Privatization of Security: Lessons from Iraq." *Orbis* 50 no. 2 (Spring 2006): 329-330.

<sup>9</sup> Larry Lock, *Is Military Outsourcing Out of Control?*, Strategy Research Project (Carlisle Barracks: U.S. Army War college, 15 March 2006), 1.

<sup>10</sup> Erik Holmes, "USAF Head: Drawdown Saving Less Than Expected," *Defense News*, 24 Sept 2007: 8.

<sup>11</sup> Kris Osborn, "U.S. DoD Stiffens Criteria for Contractor Award Fees," *Defense News*, 1 Oct 2007: 4.

<sup>12</sup> Ibid.

<sup>13</sup> Jenny Mandel, "Senators question millions in defense firm's award fees," Government Executive.com, 19 Apr 2007, available from [http://www.govexec.com/story\\_page.cfm?articleid=36674](http://www.govexec.com/story_page.cfm?articleid=36674); Internet, accessed 17 Jan 2008.

<sup>14</sup> Schumacher, 40.

<sup>15</sup> Peter W. Singer, "Outsourcing War," *The Brookings Institute*, March/April 2005; available from [http://www.brookings.edu/articles/2005/0301usdepartmentofdefense\\_singer.aspx](http://www.brookings.edu/articles/2005/0301usdepartmentofdefense_singer.aspx); Internet; accessed 4 Jan 2008.

<sup>16</sup> Stephen M. Blizzard, "Increasing Reliance on Contractors on the Battlefield," *Air Force Journal of Logistics*, Vol 28, Iss. 1 (Spring 2004): 10.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid., 11.

<sup>19</sup> Mary H. Cooper, "Private Affair: New Reliance on America's Other Army," *CQ Weekly*, 18 Sept 2004; available from Internet; <http://library.cqpress.com/cqweekly/document.php?id=weeklyreport108-000001337290&type=toc&num=115&>; accessed 15 Jan 2008.

<sup>20</sup> U.S. Department of the Army, *Contractors on the Battlefield*, Field Manual 3-100.21, (Washington, D. C.: U.S. Department of the Army, 3 January 2003), 1-7.

<sup>21</sup> Marc Lindemann, "Civilian Contractors under Military Law," *Parameters*, Vol 37, Iss. 3 (Autumn 2007): 87.

<sup>22</sup> Ibid., 88.

<sup>23</sup> Blizzard, 11.

<sup>24</sup> Schumacher, 46.

<sup>25</sup> Ibid., 49.

<sup>26</sup> Ibid., 49-51.

<sup>27</sup> Avant, "The Privatization of Security: Lessons from Iraq." 337.

<sup>28</sup> Erwin.

<sup>29</sup> David Price Home Page, available from <http://price.house.gov/>; Internet; accessed 10 Jan 2008.

<sup>30</sup> Ibid.

<sup>31</sup> Dan Guttman, "Outsourcing the Pentagon," *The Center for Public Integrity*, 29 Sept 2004, [Journal on-line]; available from <http://www.publicintegrity.org/pns/report.aspx?aid=385#10>; Internet; accessed 10 Jan 2008.

<sup>32</sup> Cooper.

<sup>33</sup> Richard Lardner, "Oversight Of Iraq Contracts Is Shifted Amid Army Probes," *Philadelphia Inquirer*, 16 Jan 2008.

<sup>34</sup> Schumacher, 51-55.

<sup>35</sup> Ibid, 51.

<sup>36</sup> Ibid, 51-52.

<sup>37</sup> Ibid, 53-54.

<sup>38</sup> Ibid, 52-53.

<sup>39</sup> Dan Guttman, "The Shadow Pentagon," *The Center for Public Integrity*, 29 Sep 2004, [Journal on-line]; available from <http://www.publicintegrity.org/pns/report.aspx?aid=386>; Internet; accessed 4 Dec 2007.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Avant, "The Privatization of Security: Lessons from Iraq." 340.

<sup>46</sup> Deborah D. Avant, "Contracting for Services in U.S. Military Operations," PS, Political Science & Politics, Vol 40, Iss 3, (Jul 2007): 459.

<sup>47</sup> Blizzard, 12.

<sup>48</sup> Ibid.

<sup>49</sup> William M. Solis, "Military Operations: Background Screenings of Contractor Employees Supporting Deployed Forces May Lack Critical Information, but U.S. Forces Take Steps to Mitigate the Risk Contractors May Pose" Government Accountability Report 06-999R, Available from: <http://www.gao.gov/new.items/d06999r.pdf>: Internet; accessed 14 Jan 2008.

<sup>50</sup> Ibid.

<sup>51</sup> Neal P. Curtin, "Military Operations: Contractors Provide Vital Services to Deployed Forces but Are Not Adequately Addressed in DOD Plans," Government Accountability Report 03-695, Available from: <http://www.gao.gov/highlights/d03695high.pdf>: Internet; accessed 15 Jan 2008.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Singer.

<sup>55</sup> Singer.

<sup>56</sup> Avant, "The Privatization of Security: Lessons from Iraq." 341.

<sup>57</sup> Ibid.

<sup>58</sup> Singer.

<sup>59</sup> Michael D. Rochelle, "Supporting Soldiers & Families To Preserve the Strength Of the All-Volunteer Force," Army, Oct 2007, Available from: [http://findarticles.com/p/articles/mi\\_qa3723/is\\_200710/ai\\_n21099861/pg\\_1](http://findarticles.com/p/articles/mi_qa3723/is_200710/ai_n21099861/pg_1); Internet; accessed 18 Jan 2008.

<sup>60</sup> Richard F. Grimmett, "Instances of Use of United States Armed Forces Abroad, 1798-2007," CRS Report for Congress, Order Code RL32170, 12 Sep 2007, Available from: <http://www.fas.org/sgp/crs/natsec/RL32170.pdf>; Internet; accessed 18 Jan 2008.

